

March 20, 2001

Dear Representative:

We are writing to express our serious concerns with the manager's amendment version of H.R. 718, the "Unsolicited Commercial Electronic Mail Act of 2001," which is scheduled to be marked up by the House Telecommunications and the Internet Subcommittee tomorrow. We support the goal of this legislative effort. However, if the bill is passed in its current form, it would pose a number of major obstacles to the expanded use of electronic commerce by a wide variety of businesses.

First, the bill contains three separate enforcement remedies, including a new private right of action. This new enforcement authority is severe and will discourage the use of electronic commerce. We agree that a strong enforcement provision is needed to deter illegal and unwanted spamming, but fear that the new rights of action will spawn a host of new lawsuits against many senders of electronic mail who inadvertently violate the sweeping requirements of the legislation. The chilling effect also will slow the evolution of electronic commerce.

Second, the bill prevents any company that controls, is controlled by, or is under common control with another company from serving their customer bases in the online world. This undermines legitimate communications and important consumer benefits resulting from existing business relationships.

Third, the preemption in the bill is sufficiently weak that companies would have to potentially contend with 50 different state laws on spamming. This would be costly and confusing to consumers and further discourage electronic commerce. If the bill contains new enforcement authority, it should create a strong preemption that sets a single national standard that companies can follow.

Fourth, the bill imposes major new standards on how companies can serve their customers and potential customers electronically that do not exist in the non-electronic world. At a time when the government should be limiting the government's regulatory reach over electronic commerce and we are urging foreign governments to follow our lead (i.e. the European Union), this bill imposes new and onerous requirements on electronic commerce that will put it at a competitive disadvantage with other forms of commerce. One example of this is the mandated "identifier" in Section 5.

Fifth, the bill contains a host of other problems that are on their own extremely troublesome. For example, it allows Internet Service Providers (ISPs) to establish their own spamming policies regardless of current law, thereby giving these entities the right to partially establish national spamming policies.

We cannot support H.R. 718 in its current form. We look forward to working with the sponsors and the Committee as the process moves forward to resolve our concerns.

National Retail Federation
American Bankers Association
American Council of Life Insurers
American Insurance Association

Bank of America
Chubb Group of Insurance Companies
Consumer Bankers Association
Credit Suisse First Boston
Electronic Financial Services Council
Financial Services Roundtable
Fireman's Fund Insurance Company
Investment Company Institute
Merrill Lynch & Co.
National Business Coalition on E-Commerce and Privacy
Principal Financial Group
The Hartford
Securities Industry Association
Zurich Financial Services Group